



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[EPA-R09-OAR-2014-0203; FRL-9913-10-Region-9]

Clean Air Act Grant: Santa Barbara County Air Pollution Control District; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action; Determination with request for comments and notice of opportunity for public hearing.

SUMMARY: The Environmental Protection Agency (EPA) has made a proposed determination that the reduction in expenditures of non-Federal funds for the Santa Barbara County Air Pollution Control District (SBCAPCD) in support of its continuing air program under section 105 of the Clean Air Act (CAA), for the calendar year 2013 is a result of non-selective reductions in expenditures. This determination, when final, will permit the SBCAPCD to receive grant funding for FY2014 from the EPA under section 105 of the Clean Air Act.

DATES: Comments and/or requests for a public hearing must be received by EPA at the address stated below by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit comments, identified by docket ID No. EPA-R09-OAR-2014-0203, by one of the following methods:

1. Federal Portal: www.regulations.gov. Follow the online instructions.
2. E-mail to: bartholomew.sara@epa.gov or
3. Mail to: Sara Bartholomew (Air-8), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

FOR FURTHER INFORMATION CONTACT: Sara Bartholomew, EPA Region IX, Grants & Program Integration Office, Air Division, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 947-4100, fax: (415) 947-3579 or email address at bartholomew.sara@epa.gov.

SUPPLEMENTARY INFORMATION: Section 105 of the Clean Air Act (CAA), 42 U.S.C. 7405, provides grant support for the continuing air programs of eligible state, local, and tribal agencies. In accordance with CAA section 105(a)(1)(A) and 40 CFR 35.145(a), the Regional Administrator may provide air pollution control agencies up to three-fifths of the approved costs of implementing programs for the prevention and control of air pollution. Section 105 contains two cost-sharing provisions which recipients must meet to qualify for a CAA section 105 grant. An eligible entity must meet a minimum 40% match. In addition, to remain eligible for section 105 funds, an eligible entity must continue to meet the minimum match requirement as well as meet a maintenance of effort (MOE) requirement under section 105(c)(1) of the CAA and 40 CFR 35.146.

Program activities relevant to the match consist of both recurring and non-recurring expenses. The MOE provision requires that a state or local agency spend at least the same dollar level of funds as it did in the previous grant year, but only for the costs of recurring activities. Specifically, section 105(c)(1) provides that "no agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year." Pursuant to CAA section 105(c)(2), however, EPA may still award a grant to an agency not meeting the requirements of section 105(c)(1), "if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government." These statutory requirements are repeated in EPA's implementing regulations at 40 CFR 35.140-35.148. EPA issued additional guidance to recipients on what constitutes a nonselective reduction on September 30, 2011. In consideration of legislative history, the guidance clarified that a non-selective reduction does not necessarily mean that each Executive branch agency need be reduced in equal proportion. However, it must be clear to EPA, from the weight of evidence, that a recipient's CAA-related air program is not being disproportionately impacted or singled out for a reduction.

A section 105 recipient must submit a final financial status report no later than 90 days from the close of its grant period that documents all of its federal and non-federal expenditures for the completed period. The recipient seeking an adjustment to its MOE for that period must provide the rationale and the documentation necessary to enable EPA to make a determination that a nonselective reduction has occurred. In order to expedite that determination, the recipient must provide details of the budget action and the comparative fiscal impacts on all the jurisdiction's executive branch agencies, the recipient agency itself, and the agency's air program. The recipient should identify any executive branch agencies or programs that should be excepted from comparison and explain why. The recipient must provide evidence that the air program is not being singled out for a reduction or being disproportionately reduced. Documentation in two key areas will be needed: Budget data specific to the recipient's air program, and comparative budget data between the recipient's air program, the agency containing the air program, and the other executive branch agencies. EPA may also request information from the recipient about how impacts on its program operations will affect its ability to meet its CAA obligations and requirements; and documentation which explains the cause of the reduction, such as legislative changes or the issuance of a new executive order.

In FY2013, EPA awarded the SBCAPCD \$490,838, which represented approximately 5% of the SBCAPCD budget. In FY2014, EPA intends to

award the SBCAPCD \$499,231, which represents approximately 5% of the SBCAPCD budget.

SBCAPCD's final Federal Financial Report for FY2012 indicated that SBCAPCD's maintenance of effort (MOE) level was \$6,317,663. SBCAPCD's final Federal Financial Report for FY2013 indicates that SBCAPCD's MOE level is at \$6,013,506.

The projected MOE is not sufficient to meet the MOE requirements under the CAA section 105 because it is not equal to or greater than the MOE for the previous fiscal year. In order for the SBCAPCD to be eligible to receive its FY2014 CAA section 105 grant EPA must make a determination, after notice and an opportunity for a public hearing, that the reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of the Santa Barbara County Air Pollution Control District.

The shortfall stems from the change in the SBCAPCD's budget over the past two years. During the budget process in early 2012 (the SBCAPCD's fiscal year is July 1, 2012-June 30, 2013) the SBCAPCD was anticipating a very large deficit. This was largely due to a projected decrease in permit fee revenues. In order to balance the budget, the SBCAPCD actively scaled back their services and supplies expenditure budget by \$298,438 and also cut back staff from 50.25 to 48.0 full time equivalents (FTE). This resulted in the overall SBCAPCD adopted budget for FY12-13 being reduced by \$448,224

from the previous year. The SBCAPCD monitored expenditures closely in FY12-13 to stay within budget. The result was that actual year-end expenses (of fixed assets, salaries and benefits, and services and supplies) for FFY12-13 were \$494,155.86 less than the prior federal fiscal year (FFY2011-12).

The SBCAPCD was unable to meet MOE in FY13 for the following reasons:

- 1) Decrease in permit revenues (licenses and permits)
- 2) Staffing decreases (FTE and salaries and benefits)
- 3) Decrease in service and supplies allocations and expenses (services and supplies)

The table below shows the actual changes for the above items between FFY 11-12 and 12-13:

Item	FFY 2011-12 actual	FFY 2012-13 actual	Difference
Licenses and Permits	\$4,051,252.03	\$3,682,017.72	(\$369,234.31)
Salaries and Benefits	\$5,501,809.76	\$5,318,670.46	(\$183,139.30)
Service and Supplies	\$3,021,850.88	\$2,780,654.29	(\$241,196.59)
FTE	50.25	48.00	(2.25)

As noted above, budgeted staff were reduced in order to balance

the FY 12-13 budget. Actual permit fee revenues decreased \$369,234 in FFY 12-13. In addition, the SBCAPCD had three people retire in FY 12-13. The retirements resulted in additional reductions in salary expenses as positions remained vacant for periods of the time.

Furthermore, new employees eventually hired to replace retirees were paid a starting salary less than the more senior retirees. Leave of absences were another factor causing reduced salaries in FY 12-13.

Salary expenses for employees on leave were not incurred which further contributed to the decrease in salary and benefits. All these factors resulted in an overall decrease of \$183,139 in salaries and benefits in FFY12-13. In addition, SBCAPCD service and supply actual expenses declined by \$241,197 in FFY12-13.

Additionally, due to the relatively small size of the SBCAPCD, small changes in total staff hours worked or incoming revenue sources year to year can cause fluctuations in MOE. This happened to a large extent in FFY 12-13, and actual expenses declined significantly from the previous year. Despite the economic pressures that have resulted in agency staff reductions, the SBCAPCD was able to keep up with program goals by implementing efficiencies. Automation of several functions was done, including automatic generation of basic permits.

The SBCAPCD is a single-purpose agency whose primary source of funding is emission fee revenue; it does not benefit from the

proceeds of property tax, sales tax or income tax. It is the "unit of government for section 105 (c) (2) purposes."

Based on: 1) Decrease in permit revenues, 2) Weakened economic conditions, 3) Staffing decreases, and 4) Decrease in service and supplies allocations and expenses, the request for a reset of SBCAPCD's MOE meets the criteria for a non-selective reduction determination.

Although SBCAPCD receives approximately 5 percent of its support from the section 105 grant, the loss of that funding would seriously impact SBCAPCD's ability to carry out its clean air program.

The SBCAPCD's MOE reduction resulted from a loss of revenues due to circumstances beyond its control. EPA proposes to determine that the SBCAPCD lowering the FY2013 MOE level to \$6,013,506 meets the CAA section 105(c) (2) criteria as resulting from a non-selective reduction of expenditures.

This document constitutes a request for public comment and an opportunity for public hearing as required by the Clean Air Act. All written comments received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** on this proposal will be considered. EPA will conduct a public hearing on this proposal only if a written request for such is received by EPA at the address above by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE**

FEDERAL REGISTER]. If no written request for a hearing is received, EPA will proceed to the final determination. While notice of the final determination will not be published in the Federal Register, copies of the determination can be obtained by sending a written request to Sara Bartholomew at the above address.

Dated: June 19, 2014.

Jared Blumenfeld,
Regional Administrator,
Region IX.